IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 32046 of 2007(M)

PETITIONER:

TOM JOSE @ THOMAS, S/O.JOSEPH,
KUMBLANKAL (H), THODUPUZHA KARA,
DO. VILLAGE, DO. TALUK, DO.(P.O)

BY ADV. SRI.T.J.MICHAEL

RESPONDENTS:

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1. ASSISTANT REGISTRAR (GENERAL) OF
CO-OPERATIVE SOCIETIES, THODUPUZHA TALUK,
THODUPUZHA P.O.

2. THE VELLIYAMATTAM SERVICE CO-OPERATIVE
BANK LTD., REPRESENTED BY SECRETARY,
PANNIMATTAM (P.O), THODUPUZHA.

BY ADV. SRI.P.V.BABY (FOR R2)
SRI.A.N.SANTHOSH
GOVT. PLEADER, SRI.P.K.RAVIKRISHNAN (FOR R1)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 32046/2007/M

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF AGREEMENT ENTERED BETWEEN PETITIONER AND LEELAMMA DATED 22/11/98.

EXT. P2: CERTIFICATE FROM VILLAGE OFFICER, VELLIMATTAM SHOWING THAT THERE IS NO RESURVEY PLAN FOR THE PROPERTY AGREED TO BE SOLD TO PETITIONER DATED 11/10/06.

EXT. P3: COPY OF BASIC TAX RECEIPT DATED 21/3/07.

EXT. P4: COPY OF JUDGMENT IN O.S. NO.126/04 OF MUNSIFFS COURT, THODUPUZHA DATED 25/10/06.

EXT. P5: COPY OF ORDER OF ASST. REGISTRAR CO-OP. SOCIETIES, THODUPUZHA DATED 20/12/06.

RESPONDENT'S EXHIBITS:

EXT. R2(A): COPY OF THE RECEIPT DATED 10.7.1996 ISSUED BY THE THODUPUZHA BRANCH OF THE IDUKKI DISTRICT CO-OPERATIVE BANK.

EXT. R2(B): COPY OF MORTGAGE DEED DATED 17.7.1996 EXECUTED BY MATHEW IN FAVOUR OF THE 2ND REPSONDENT BANK.

EXT. R2(C): COPY OF MORTGAGE DEED DATED 17.7.1996 EXECUTED BY LEELAMMA IN FAVOUR OF THE 2ND RESPONDENT BANK.

EXT. R2(D): COPY OF AWARD DATED 16.12.2002 ISSUED BY THE SPECIAL SALE OFFICER IN FAVOUR OF THE 2ND RESPONDENT BANK AGAINST MATHEW.

EXT. R2(E): COPY OF AWARD DATED 16.12.2002 ISSUED BY THE SPECIAL SALE OFFICER IN FAVOUR OF THE 2ND RESPONDENT BANK AGAINST LEELAMMA.

EXT. R2(F): COPY OF E.P. NO.65/2003 FILED BY THE 2ND RESPONDENT AGAINST EXT.R2(D).

EXT. R2(G): COPY OF E.P. NO.66/2003 FILED BY THE 2ND RESPONDENT AGAINST EXT.R2(E).

EXT. R2(H): COPY OF SUMMONS DATED 17.3.2003 ISSUED IN EXT. R2(F) IN FAVOUR OF MATHEW.

EXT. R2(I): COPY OF SUMMONS DATED 17.3.2003 ISSUED IN EXT.R2(F) IN FAVOUR OF LEELAMMA.

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.32046 OF 2007

Dated this the 22nd day of November, 2007

JUDGMENT

The controversy in this writ petition is in relation to a loan advanced by the second respondent co-operative bank. It is stated that there is also an arbitration case which has resulted in an award. The question is whether the impugned Ext.P5 issued in exercise of power under Section 35 of the Kerala Co-operative Societies Act, 1969 is sustainable. Whether the attachment as imposed and the consequences stands is a matter which have to be adjudicated within the framework of the Statute. Ext.P5 order is issued in December, 2006 and this writ petition is filed in October, 2007. It is the petitioner's case that Ext.P5 order is illegal and without jurisdiction. Whatever that be, in terms of Sections 83 and 87, the petitioner has adequate alternate remedies for redressal of grievances against Ext.P5. Without prejudice to such remedies, this writ petition is dismissed. Such consideration will call for a decision on disputed questions of facts and law.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.